

Application No. 10/564,172
Paper Dated: January 15, 2009
In Reply to USPTO Correspondence of December 15, 2008
Attorney Docket No. 4587-045810

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/564,172 Confirmation No. 7988
Applicant : Mirko LEHMANN
Filed : January 10, 2006
Title : METHOD FOR STRUCTURING A SUBSTRATE
SURFACE
Group Art Unit : 1792
Examiner : Andrew J. Bowman
Customer No. : 28289

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

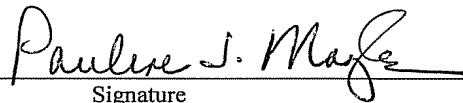
ELECTION WITH TRAVERSE

Sir:

In response to the restriction requirement issued by the Examiner in the above-identified patent application on December 15, 2008, Applicant hereby elects with traverse to prosecute Species I on the merits in connection with this application. Upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim.

I hereby certify that this correspondence is being electronically
submitted to the United States Patent and Trademark Office on January
15, 2009.

01/15/2009
Date


Signature

Pauline J. Moyles
Typed Name of Person Signing Certificate

Application No. 10/564,172
Paper Dated: January 15, 2009
In Reply to USPTO Correspondence of December 15, 2008
Attorney Docket No. 4587-045810

The Examiner maintains that there is an examination and search burden for Species I and Species II. Applicant respectfully disagrees. If the fields of search are indeed different, they are not so different as to pose an undue burden on the Examiner. Furthermore, all of the pending claims are directed to "A method for structuring the surface of a substrate", and therefore a search on Species I will no doubt also encompass prior art which might be pertinent to Species II. The balance of hardships clearly weighs in favor of Applicant, who would be required to, in essence, pay for and maintain two patents in this case if the restriction requirement is maintained and Species II is not ultimately considered in connection with the instant application.

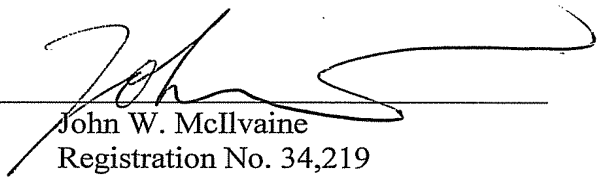
Currently, the following claims are believed to be encompassed within Species I: 1, 3, 4, 5, 6, 7, 8, 9, and 10.

Withdrawal of the restriction requirement and examination of all pending claims on the merits is requested.

Respectfully submitted,

THE WEBB LAW FIRM

By



John W. McIlvaine
Registration No. 34,219
Attorney for Applicant
436 Seventh Avenue
700 Koppers Building
Pittsburgh, PA 15219
Telephone: (412) 471-8815
Facsimile: (412) 471-4094
E-mail: webblaw@webblaw.com